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MICHAEL J. TRAVIESO
PEOPLE'S COUNSEL

SANDRA MINCH GUTHORN
DEPUTY PEOPLE'S COUNSEL

DONALD F. ROGERS
PAULA M. CARMODY
CYNTHIA GREEN-WARREN
THERESA V. CZARSKI
WILLIAM F. FIELDS
LUANNE P. MCKENNA
ANTHONY C. DEPASTINA

MARYLAND PEOPLE'S COUNSEL

WILLIAM DONALD SCHAEFER TOWER
6 ST. PAUL STREET, SUITE 2102
BALTIMORE, MARYLAND 21202
(410) 767-8150
(800) 207-4055
FAX (410) 333-3616

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

May 24, 2000

Mr. Lawrence E. Strickling
Chief, Common Carrier Bureau
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: Depreciation, CC Docket 98-137

Dear Mr. Strickling:

This letter contains NASUCA's response to the May 8, 2000 letter to you in this docket from the incumbent local exchange carrier (ILEC) members of the CALLS group. That letter purports to clarify the commitments made by these ILECs regarding their ability to raise intrastate rates/prices if the FCC accepts their depreciation proposal.

As you know, NASUCA opposes the ILEC CALLS members' depreciation proposal for reasons more fully stated in our Reply Comments. Because NASUCA members are state utility consumer advocates, we expressed in those comments our belief that if the FCC accepted the CALLS depreciation proposal it would inevitably have a negative impact on the prices paid by state consumers for services offered by these ILECs. Nothing in the ILECs' May 8 letter has changed our position.

As before, the ILECs have again promised that they will not seek recovery of the "interstate amortization expense" in intrastate rates. As has already been noted in the NASUCA Reply Comments and the comments filed by the National Association of Regulatory Utility Commissioners (NARUC), this commitment will not prevent the recovery in state rates or prices of increased intrastate depreciation expense or the amortization of the intrastate depreciation write off which these ILECs would be free to seek.

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These ILECs make an additional conditional promise "not to seek intrastate price increases to recover the increased intrastate amortization expense that would occur as a result of this FCC amortization action." Of course, the condition swallows the commitment. This ILEC promise is only good in "any state jurisdiction that automatically mirrors the FCC depreciation rates." (Emphasis added). At this time, NASUCA is not aware of how many, if any, states "automatically" mirror the FCC depreciation rates, but NASUCA is aware that most states set depreciation rates on their own, using the FCC rates as but one factor. We assume that you have obtained from these ILECs a list of the states they believe "automatically" mirror the FCC depreciation rates. NASUCA would appreciate receiving this list so that our members can determine if it is accurate.

Because of this limitation, the ILECs statements about states which "have taken an independent approach to depreciation" are of crucial significance. The ILECs have made absolutely no promises with regard to their ability to affect state rates/prices in these states. Therefore, NASUCA believes that the May 8 letter is merely a reiteration of a completely hollow and virtually meaningless commitment by these ILECs regarding state rate setting/price proceedings.

NASUCA believes that these ILECs would be free, through the approval by the FCC of their five-year below-the-line amortization proposal, to use this powerful precedent to affect state rates/prices in the following ways:

1. An above-the-line amortization of the state depreciation write off would be presumed to increase the ILEC's state revenue requirement. These increases would be very large, would greatly reduce the ILECs state regulatory rates of return; would hurt consumers under state price cap plans and would support requests for state rate increases.
2. The change in the FCC depreciation expense, without consideration of the amortization expense, would support requests for substantial increases in these ILEC's state revenue requirements, with all of the same consequences as noted above.

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A below-the-line one-year write-off of the amortization expense is the only way to protect state consumers from adverse rate/price affects. Even this treatment would not protect state consumers from the completely predictable efforts by these ILECs to argue that the FCC has recognized financial depreciation lives and expenses as appropriate for ratemaking purposes. This precedent would be very bad for state consumers. Moreover, this precedent would be completely inconsistent with the FCC's December 1999 depreciation order which, except in one instance, rejected out of hand the ILECs arguments that shorter financial reporting depreciation lives were appropriate for use in ratemaking.

NASUCA again urges the FCC to reject this anti-consumer proposal. There are no consumer benefits, only the potential for serious harm to consumers. The ILECs have not offered any reason why the FCC should completely reverse the conclusions it reached on ILEC depreciation just a few months ago.

Dogged persistence in advocating rejected positions should not be convincing.

Sincerely,



Michael J. Travieso
Chair, NASUCA
Telecommunications
Committee, for

The National Association
of State Utility Consumer
Advocates

MJT:sd

cc: Ms. Kathy Brown
Ms. Dorothy Attwood
Mr. Jordan Goldstein
Ms. Sarah Whitesell
Mr. Kyle Dixon
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Mr. Kenneth Moran
Mr. Robert Rowe
Mr. William Gillis